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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Southwest Fair Housing Council,

10 Plaintiff,

11 v.

12 WG Chandler Villas SH LLC,

13 Defendant.
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No. CV-19-00178-TUC-RM

ORDER

15 Pending before the Court is Defendant's Motion to Change Venue/Transfer Case
16 to Phoenix Division for Trial. (Doc. 86.) Defendant seeks to transfer this matter to the
17 Phoenix Division of the District of Arizona for trial. (*Id.*) Trial is currently set for May
18 17, 2022, at 1:30 p.m. in the Tucson Division.

19 Defendant WG Chandler Villas SH LLC is a 164-unit residential apartment
20 complex located in Chandler, Arizona that provides private apartments for seniors. (*Id.*) It
21 is not a nursing care facility and does not provide medical services to its residents. (*Id.*)

22 Plaintiff Southwest Fair Housing Council is a non-profit organization that
23 advocates for fair housing rights for persons with disabilities. In this case, Plaintiff
24 employed a "tester" who posed as a relative of a fictitious deaf individual in order to
25 "test" Defendant's compliance with the Americans with Disabilities Act ("ADA"), the
26 Fair Housing Act ("FHA"), and other non-discrimination laws.¹ During a visit to
27 Defendant's facility, Plaintiff's tester Gladys Beebe investigated whether Defendant
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¹ Plaintiff's other claims were dismissed at summary judgment. (*See* Doc. 62.)

1 would provide an American Sign Language (“ASL”) interpreter and/or a flashing
2 doorbell to her fictitious deaf grandfather, were he to become a resident of Defendant’s
3 facility. Beebe met with Kim Woda, Defendant’s Executive Director, and toured the
4 facility on August 23, 2016. The interactions and conversation between Woda and Beebe
5 were recorded, and no other communications between Plaintiff and Defendant took place.

6 “For the convenience of parties and witnesses, in the interest of justice, a district
7 court may transfer any civil action to any other district or division where it might have
8 been brought or to any district or division to which all parties have consented.” 28 U.S.C.
9 § 1404(a). The Ninth Circuit Court of Appeals has explained that “[w]eighing of the
10 factors for and against transfer involves subtle considerations and is best left to the
11 discretion of the trial judge.” *Commodity Futures Trading Comm’n v. Savage*, 611 F.2d
12 270, 279 (9th Cir.1979). A plaintiff’s choice of forum “must be given some weight[.]” *Id.*
13 A district court’s decision not to transfer has been upheld where the court “was familiar
14 with the case and transfer may have led to delay.” *Id.* A district court’s decision regarding
15 change of venue is reviewed for abuse of discretion. *Ventress v. Japan Airlines*, 486 F.3d
16 1111, 1118 (9th Cir. 2007). The Local Rules of the District of Arizona provide that “all
17 civil and criminal cases founded on causes of action arising in the Phoenix division shall
18 be tried in Phoenix,” unless otherwise ordered by the Court. LRCiv 77.1(c).

19 Defendant argues that this matter should be transferred to Phoenix for trial because
20 (1) the cause of action arose in Phoenix and (2) Kim Woda, who is one of Defendant’s
21 key witnesses, resides in Phoenix more than 100 miles from the courthouse in Tucson.
22 (Doc. 86.) Defendant contends that testifying at trial in Tucson would pose a hardship to
23 Woda; furthermore, she can only be compelled to testify if trial is held in Phoenix. (*Id.*;
24 *see* Fed. R. Civ. P. 45(c)(1).)

25 Considering the convenience of parties and witnesses and the interests of justice,
26 the Court declines to exercise its discretion to transfer the trial venue to Phoenix. The
27 Court is already very familiar with the case and the relevant issues, having held numerous
28 hearings and issued numerous orders, including on dispositive motions and a *Daubert*


1 motion. (*See* Docs. 62, 78.) Furthermore, the Court recently held trial in another case
2 involving the same Plaintiff and very similar issues, 19-CV-00179-RM, further adding to
3 its familiarity with the parties and relevant issues.² In addition, trial has already been
4 delayed due to the COVID-19 pandemic and conflicts in the Court's calendar. Transfer to
5 Phoenix for trial would likely cause additional and unnecessary delay.

6 The Court also declines to exercise its discretion to transfer venue because it does
7 not find that Defendant has sufficiently demonstrated that transfer is necessary under the
8 applicable rules. Although travel to Tucson would likely cause some hardship to Ms.
9 Woda, since it will require her to be away from her home and place of work, Defendant
10 has not presented facts or circumstances that would suggest a level of hardship beyond
11 what would ordinarily be expected for a witness to travel to another city within the
12 District of Arizona for a trial. Furthermore, although Defendant cannot compel Woda to
13 testify in Tucson, Defendant does not indicate that she will refuse to testify unless
14 compelled to do so. Woda is a former employee of Defendant and Defendant does not
15 indicate that it cannot coordinate with her to arrange her testimony in Tucson. Finally, the
16 Court considers Plaintiff's choice of the venue of Tucson in declining to transfer venue.

17 Accordingly,

18 **IT IS ORDERED** that the Motion to Change Venue/Transfer Case to Phoenix
19 Division for Trial (Doc. 86) is **denied**.

20 Dated this 17th day of March, 2022.

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Honorable Rosemary Márquez
United States District Judge

² Trial in 19-CV-00179-RM concluded on February 18, 2022.